



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matters of Pantelis Koukoulis,
Police Officer (S9999U), East Orange
and Police Officer (S9999U), Orange

List Removal Appeals

CSC Docket Nos. 2019-3676 and
2019-3516

ISSUED: DECEMBER 6, 2019 (HS)

Pantelis Koukoulis, represented by Wolodymyr P. Tyshchenko, Esq., appeals the removal of his name from the eligible lists for Police Officer (S9999U), East Orange and Police Officer (S9999U), Orange on the bases that he failed to respond to certification notices. These appeals have been consolidated due to common issues presented.

The appellant, a non-veteran, took and passed the open-competitive examination for Police Officer (S9999U), which had a closing date of August 31, 2016. The resulting eligible list promulgated on March 29, 2017 and expires on March 30, 2020.¹ The appellant's name was certified to East Orange on September 12, 2018 (OL180959) with a notice date of September 19, 2018 and to Orange on September 26, 2018 (OL181011) with a notice date of October 3, 2018. In disposing of the certifications, each appointing authority requested the removal of the appellant's name on the basis that he failed to respond to the applicable certification notice. Certification notices instruct individuals to write to the appointing authority within five business days of the notice date to let it know whether or not the individual is interested in the position. The dispositions of certifications OL180959 and OL181011 were recorded by this agency on April 17, 2019 and April 16, 2019, respectively.

In his appeals to the Civil Service Commission (Commission), postmarked June 5, 2019, the appellant submits affidavits indicating that he did not receive the

¹ The eligible list was extended one year to March 30, 2020.

certification notices or the Certification Disposition Notices that advised him of the removal of his name from the eligible lists. He indicates in his affidavits that it was only on June 4, 2019 that the removal of his name came to his attention.

It is noted that the appointing authorities, though provided the opportunity, did not submit any arguments in response.

CONCLUSION

Initially, a list removal appeal must be filed within 20 days of notice of the action. See *N.J.A.C. 4A:4-4.7(d)*, *N.J.A.C. 4A:4-6.3(a)3* and *N.J.A.C. 4A:4-6.6(a)1*. The appeal must be filed with an appropriate representative of the Commission as indicated on the notice advising of removal. See *N.J.A.C. 4A:4-6.6(a)2*. In these matters, the dispositions of the certifications were recorded on April 17, 2019 and April 16, 2019, respectively, and the appellant's appeals were not postmarked until June 5, 2019. However, the appellant has sworn that he did not receive the Certification Disposition Notices that advised him of the removal of his name from the eligible lists and that the removal of his name came to his attention only on June 4, 2019. As such, the Commission will accept the appeals, postmarked only a day later, as timely filed and proceed to address the merits.

N.J.A.C. 4A:4-4.7(a)6 provides that an eligible's name may be removed from a list for "non-compliance with the instructions listed on the notice of certification." *N.J.A.C. 4A:4-6.3(b)*, in conjunction with *N.J.A.C. 4A:4-4.7(d)*, provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

The appointing authorities requested the removal of the appellant's name from the eligible lists for Police Officer (S9999U), East Orange and Police Officer (S9999U), Orange on the bases of his failure to respond to certification notices OL180959 and OL181011, respectively. However, the appellant has submitted affidavits attesting that he did not receive the notices. While there is a presumption that mail correctly addressed, stamped and mailed was received by the party to whom it was addressed, the appellant has rebutted that presumption in submitting his affidavits. See *SSI Medical Services, Inc. v. State Department of Human Services*, 146 *N.J.* 614 (1996); *Szczesny v. Vasquez*, 71 *N.J. Super.* 347, 354 (App. Div. 1962); *In the Matter of Joseph Bahun*, Docket No. A-1132-00T5F (App. Div. May 21, 2001). Thus, it is appropriate to restore the appellant's name to the eligible lists.

ORDER

Therefore, it is ordered that these appeals be granted and the appellant's name be restored to the eligible lists for Police Officer (S9999U), East Orange and Police Officer (S9999U), Orange for prospective employment opportunities.

This is the final administrative determination in these matters. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF DECEMBER, 2019



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